

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IRACING.COM MOTORSPORT SIMULATIONS,  
LLC, a Delaware Limited Liability Company,

Plaintiff,

v.

TIM ROBINSON, individually and d/b/a  
www.ow-racing.com, www.torn8oalley.com and  
www.First-Racing-Sucks.com,

Defendant.

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Civil Action No.  
05-11639 NG

PLAINTIFF'S  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT

Plaintiff iRacing.com Motorsport Simulations, LLC ("iRacing") respectfully moves  
for an Order entering partial summary judgment as follows:

(1) finding Defendant Tim Robinson ("Robinson") liable for copyright  
infringement subject only to a trial on the "market effect" factor of Robinson's fair use  
affirmative defense;

(2) finding Robinson liable for breach of the End User License Agreement in  
effect with respect to NASCAR® Racing 2003 Season ("NASCAR® 2003") software;  
and

(3) entering declaratory judgment that:

(a) iRacing has the exclusive copyrights in NASCAR® 2003 and its source  
code and object code, including the exclusive right to reproduce and distribute copies of  
derivative versions thereof; and

(b) the Confidential Disclosure Agreement is valid, enforceable and  
binding against Robinson.

In support hereof, iRacing relies on the Court's May 25, 2007 Order, the supporting Memorandum of Points and Authorities and the Affidavit of Michael G. Andrews filed herewith, and the affidavits of Irwin B. Schwartz, David Kaemmer, and Rance J. DeLong previously submitted in this action.

DATED: December 18, 2007

Respectfully submitted,

iRacing.com Motorsport Simulations, LLC  
By its attorneys,

/S/ Michael G. Andrews  
Irwin B. Schwartz (BBO# 548763)  
Michael G. Andrews (BBO# 663452)  
Business Litigation Associates, P.C.  
225 Franklin Street, 26<sup>th</sup> Floor  
Boston, Massachusetts 02110  
(617) 421-1800

**Certification Under Local Rule 7.1(a)(2)**

I, Michael G. Andrews, attorney for Plaintiff iRacing.com Motorsport Simulations, LLC, hereby certify that I complied with Local Rule 7.1 in that I attempted to confer with defendant's counsel by electronic mail and fax on November 9<sup>th</sup> and 14<sup>th</sup>, 2007 in a good faith attempt to narrow and/or resolve the issues addressed in this motion. The conference did not result in defendant's assent to this motion.

/s/ Michael G. Andrews  
Michael G. Andrews

**Certificate of Service**

I, Michael G. Andrews, attorney for Plaintiff iRacing.com Motorsport Simulations, LLC, hereby certify that on this 18th day of December 2007, I filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to: Joseph F. Ryan, Lyne Woodworth & Evarts LLP, 600 Atlantic Avenue, Boston, MA 02210, counsel for Defendant Tim Robinson.

/s/ Michael G. Andrews  
Michael G. Andrews